

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 2-4, 6-27, 29-39, 41-44 are pending in the application, with 4, 9, 18, 19, 25, 31, 34, 37, and 42-44 being the independent claims. Claims 5, 28, and 40 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1-8, 18, 20-22, 24-28, 31-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,667,462 to Gordon ("Gordon"). The Examiner did not give patentable weight to the language of claims 2-3, 6-8, 26-28, 32-33 and 35-36, stating that the claims recite purely functional language. These claims have been amended to provide structural language.

Claims 1-8, 20-22 and 24

Claim 1 was canceled in Amendment "B" filed on February 7, 2003, rendering its rejection moot.

The Examiner asserts that the Gordon patent discloses every element of independent claim 4. Claim 4 has been amended to recite a hub comprising "a flexible connector and a tilt adjuster movably coupled thereto, wherein said tilt adjuster is

disposed about said flexible connector." The Examiner states that Gordon discloses a hub that has a two-part member comprising a flexible connector (23) and a tilt adjuster (44). Office Action page 2. However, the Gordon patent does not disclose the "adjuster" (44) as being "*disposed about* said flexible connector," as claimed. Rather, the "adjuster" (44) of the Gordon patent is mounted on the bottom of support 14 and therefore *placed below* "flexible connector" (23). (See Figure 2 of the Gordon Patent). Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 2-3, 6-8, 20-22, and 24 depend from and add features to claim 4; therefore, these claims are patentable for at least the same reasons as discussed above with respect to claim 4. Applicants therefore respectfully request that the rejection be withdrawn.

Claim 5 has been canceled, rendering its rejection moot.

Claims 18 and 20

The Examiner states that "as to claims 18 and 20, the outlined shoe is considered a non-slip material." Office Action page 2. Independent claim 18 recites an exercise platform including "a friction reducer that is interposed between said board and said hub to reduce the amount of friction between said board and said hub." The Gordon patent does not disclose friction reducer "interposed *between* said board and said hub," as claimed. The "non-slip material" which the Examiner considers the Gordon patent to show by the outlined shoe would be *on the board*, and not "interposed *between* said board and said hub," as claimed. Accordingly, Applicants respectfully request the rejection be withdrawn.

As stated above, claim 20 depends from and adds features to claim 4; therefore claim 20 is patentable for at least the same reasons as discussed above with respect to claim 4. Applicants therefore request that the rejection be withdrawn.

Claims 25-28

Independent claim 25 has been amended to recite a wobbly apparatus comprising "at least one handle, made of a stretchable material and coupled to one of said first and second supports." The Examiner asserts that the Gordon patent discloses a handle (151) coupled to the platform and held by a user. However, hand rail (151) of Gordon is not stretchable, as claimed. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 26-27 depend from and add features to claim 25; therefore, these claims are patentable for at least the same reasons as discussed above with respect to claim 25. Applicants therefore respectfully request that the rejection be withdrawn.

Claim 28 has been canceled, rendering its rejection moot.

Claims 31-33

Claim 31 as amended recites "a tilt adjuster disposed about said flexible connector and moveably coupled thereto." The Examiner states that Gordon discloses a flexible connector (23) and a tilt adjuster (44). However, the Gordon patent does not disclose the "adjuster" (44) as being "*disposed about* said flexible connector," as claimed. Rather, the "adjuster" (44) of the Gordon patent is mounted on the bottom of support 14 and therefore *placed below* "flexible connector" (23). (See Figure 2 of the

Gordon Patent). Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 32-33 depend from and add features to claim 31; therefore, these claims are patentable for at least the same reasons as discussed above with respect to claim 31. Applicants therefore respectfully request that the rejection be withdrawn.

Claims 34-36

The Examiner asserts that the Gordon patent discloses every element of independent claim 34. However, the Examiner did not indicate where Gordon discloses "a flexible connector having a top abutment member set; and an adjuster that includes one or more bottom abutment member sets." The Gordon patent does not disclose either top or bottom abutment member sets as claimed. Applicants therefore respectfully request that the rejection be withdrawn.

Claims 35-36 depend from and add features to claim 34; therefore, these claims are patentable for at least the same reasons as discussed above with respect to claim 34. Applicants therefore respectfully request that the rejection be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 23 and 29-30

Claims 23 and 29-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gordon patent in view of U.S. Patent No. 5,330,339 to Fan ("Fan"). The Examiner asserts that U.S. Patent No. 5,330,339 to Fan ("Fan") teaches a stretchable handle (30) removably coupled to the device, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made "to employ a handle with stretching qualities in order to provide resistance to the user while

exercising." Office Action page 3. Applicants respectfully traverse this rejection. The Examiner has engaged in impermissible hindsight reconstruction, as there is no motivation to combine the teachings of Gordon with those of Fan since the handle of Fan serves a function contrary to the hand rail (151) of Gordon. Gordon neither teaches nor *suggests* the use of handles *to provide resistance to the user while exercising*. Gordon teaches an exercise and physical therapy apparatus having hand rails *to aid* the user stepping onto an engagement member and "to enable the user *to maintain balance*" on the apparatus when the user tilts the engagement member in the course of therapy or exercise. See Col. 8, lines 50-56 of Gordon. If the hand rail of Gordon were elastic ropes taught by Fan, the hand rail would not provide support and aid in maintaining balance. Given that the hand rail (151) of Gordon serves an entirely different function (i.e., designed to help maintain balance) than that of Fan (i.e., designed to be pulled by user to allow resistance exercise of the arms), there is no motivation to combine the teachings of Gordon with those of Fan. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 37-41

Claims 37-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,413,197 to McKechnie *et al.* ("McKechnie ") in view of the Fan patent. The Examiner asserts that the McKechnie patent discloses all limitations of claims 37-39 and 41 except for the handle being stretchable, and that Fan teaches a stretchable handle (30) removably coupled to the device. Applicants respectfully traverse this rejection. McKechnie does not disclose "a handle having a first end held by the individual and a second end coupled to the board, " as claimed. The torsion board of

McKechnie also does not show any place where a handle may be attached. Nor does McKechnie teach or *suggest* the use of a handle at all, since McKechnie teaches a torsion board which permits pivoting about three axes so as to allow a user to practice and improve balance during *body rotation exercises* (see col. 3, lines 59-67; col. 8, lines 48-50 of McKechnie), unlike the assembly of Fan. In Fan, the user does not engage in *body rotation exercises*, but rather *rocks* the board about a single axis to exercises his limbs while pulling the ropes with his hands. Consequently, the board of McKechnie is meant to challenge a user's ability to maintain balance while sustaining *rotational oscillation*, not to engage in *rocking* of the board. Accordingly, there is no motivation to combine the teachings of McKechnie with those of Fan. Applicants therefore respectfully request that the rejection be withdrawn.

Claims 38-39 and 41 depend from and add features to claim 37; therefore, these claims are patentable for at least the same reasons as discussed above with respect to claim 37. Claim 40 has been canceled, rendering its rejection moot. Applicants therefore respectfully request that the rejections be withdrawn.

Other Objections

Claims 9-17 were objected to as being dependent upon a rejected base claim. The Examiner indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the respective base claim and any intervening claims. Claim 9 has been rewritten as an independent claim incorporating subject matter from the intervening claims. Claims 10-17 depend directly or indirectly from claim 4 and add features to claim 4; therefore, claims 10-17 are allowable for at least the same

reasons discussed above with respect to claim 4. Applicants therefore respectfully request that the objection be withdrawn.

Claim 19 was objected to because the claim language "reinforcement" was unclear. Claim 19 has been amended to clarify the reinforcement as a "reinforcing plate." This amendment is fully supported by the specification and is not believed to introduce new matter has been added by this amendment. Applicants respectfully request that the objection be withdrawn.

Other Matters

The Examiner states in the Office Action Summary that claims 1-41 are pending in the application. However, as a result of the Amendment "B" filed in the present application on February 7, 2003, which added claims 42-44 and canceled claim 1, claims 2-44 should have been pending in the application prior to this Amendment. Applicants respectfully request the Examiner to acknowledge and consider pending claims 42-44.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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